

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARTIN MILANO,

Plaintiff,

vs.

MIDDLETOWN ENLARGED CITY SCHOOL  
DISTRICT, PETER ANCONA, Director of  
Technology, PATRICIA MCLEOD, former  
Superintendent of Schools, KENNETH  
EASTWOOD, Superintendent of Schools,  
VINCENT CRESCENZO, President of the Board  
of Education, sued in their individual capacities,

Case no. 05 Civ. 4526

Defendants.

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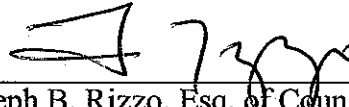
**COUNTER-STATEMENT OF MATERIAL FACTS**

1. Admitted.
2. Admitted.
3. The Plaintiff's Paragraph "3" is a question of statutory interpretation and/or a question of law for the Court to determine. The applicability of Civil Service Law §7 is not an uncontested fact.
4. Admitted.
5. Denied. The employment position of the Plaintiff, Martin Milano, was eliminated by the Defendant, Middletown Enlarged City School District, for non-retaliatory budgetary reasons. (See Affidavit of Kenneth Eastwood, June 16, 2006, at ¶¶9-16; Affidavit of Vincent Crescenzo, June 16, 2006, at ¶¶4-5).
6. Denied. (See ¶5 hereinabove), as no charges or hearing were necessary, relevant or applicable.

Dated: Rochester, NY  
July 14, 2006

Respectfully submitted,

GALLO & IACOVANGELO, LLP

A handwritten signature in black ink, appearing to read 'J B Rizzo', is written over a horizontal line.

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